

IC 15-4-12

Chapter 12. Indiana Organic Certification Accreditation

IC 15-4-12-1

"Applicant" defined

Sec. 1. As used in this chapter, "applicant" refers to a certifying agent applying for accreditation from the commissioner in compliance with the Organic Foods Production Act.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-2

"Certifying agent" defined

Sec. 2. As used in this chapter, "certifying agent" refers to a person or entity acting as an independent contractor who is:

- (1) accredited by the commissioner;
- (2) approved by the panel to conduct field or farm certification;
- and
- (3) accredited by the United States Department of Agriculture under the Organic Foods Production Act.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-3

"Commissioner" defined

Sec. 3. As used in this chapter, "commissioner" refers to the commissioner of agriculture or the commissioner's designee.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-4

"Organic" defined

Sec. 4. As used in this chapter, "organic" refers to the method of crop production. The term does not refer to the quality, nutritional value, or healthfulness of the crop produced.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-5

"Organic Foods Production Act" defined

Sec. 5. As used in this chapter, "Organic Foods Production Act" means the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

As added by P.L.175-1993, SEC.1.

IC 15-4-12-6

"Panel" defined

Sec. 6. As used in this chapter, "panel" means the Indiana organic peer review panel established under section 9 of this chapter.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-7

Accreditation of applicants

Sec. 7. (a) The commissioner may grant accreditation to an

applicant under this chapter.

(b) In determining whether to grant accreditation to an applicant, the commissioner shall consider a report concerning the applicant that is prepared by the panel under section 13 of this chapter.

(c) The commissioner shall make a determination and respond to the applicant on or before three (3) months after the date of receipt of the application.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-8

Application for accreditation required

Sec. 8. A certifying agent operating within the state must apply in writing to the commissioner for accreditation.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-9

Organic peer review panel

Sec. 9. (a) The Indiana organic peer review panel is established.

(b) The panel consists of nine (9) members who have knowledge in techniques involving the growing of organic products and have experience in the field of organic agriculture. The governor shall appoint the members as follows:

(1) Three (3) representatives of the Indiana farming community who are operators of an organic farm in the state that is certified by a private certification agency.

(2) One (1) representative of a group representing retailers or distributors of organic products.

(3) Two (2) representatives of a group representing consumers of organic products.

(4) One (1) representative of a group representing processors or handlers of organic products.

(5) The commissioner shall serve as an ex officio nonvoting member of the panel.

(6) The state chemist shall serve as an ex officio nonvoting member of the panel.

(c) Not more than two (2) voting members of the panel appointed under subsection (b) may be persons who are employed by the state.

(d) The panel shall select a chairman from among the panel members.

(e) The term of each voting member of the panel is four (4) years. A vacancy on the panel before the expiration of a term shall be filled for the unexpired term in the same manner as an appointment to the panel is made.

(f) The governor may remove a panel member for cause.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-10

Panel meetings

Sec. 10. (a) Each year, the panel shall meet quarterly and at any other times called by the chairman.

- (b) Four (4) members present at a meeting constitute a quorum.
 - (c) A majority of a quorum is required to conduct the business of the panel.
 - (d) IC 5-14-1.5 applies to meetings of the panel.
- As added by P.L.175-1993, SEC.1.*

IC 15-4-12-11

Per diem; reimbursement for expenses

Sec. 11. (a) A member of the panel who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(b) A member of the panel is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-12

Commissioner to implement chapter

Sec. 12. The commissioner shall implement this chapter with the assistance of the panel. The commissioner has no regulatory authority under this chapter except as provided under section 16 of this chapter.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-13

Duties of panel; criteria for standards used in reviewing certification procedures; fees

Sec. 13. (a) The panel shall do the following:

- (1) Adopt criteria for establishing standards to be used in reviewing the procedure by which certifying agents certify that the agricultural product was produced or handled in accordance with the regulations adopted under the Organic Foods Production Act.
- (2) Review all applicants every three (3) years.
- (3) Prepare and submit a report concerning the applicant to the commissioner.
- (4) Assist the commissioner in evaluating applications for accreditation from applicants.
- (5) Establish fees to be paid by an applicant seeking accreditation from the commissioner to certify organic products. The fees established may not exceed the costs of administering this chapter.

(b) The criteria adopted under this section must concern the following:

- (1) The production and handling of agricultural products.
- (2) A procedure under which certifying agents certify a farm, field, or product under this chapter.
- (3) The inspection of farms and products.

- (4) Testing by certifying agents.
- (5) Reasonable security provided by the certifying agent for the protection of the rights of participants in an applicable organic certification program.
- (6) Other terms and conditions that the panel considers necessary, in compliance with the Organic Foods Production Act.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-14

Sale of products designated organic; certification required

Sec. 14. A person may sell or label a product produced in Indiana as:

- (1) organic;
- (2) certified organic; or
- (3) Indiana certified organic;

in Indiana, only if the product has been certified by a certifying agency that has been accredited by the commissioner.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-15

Marketing uncertified products as organic; infraction; certification required for products of other states

Sec. 15. (a) A person:

- (1) who uses the term:
 - (A) organic;
 - (B) certified organic; or
 - (C) Indiana certified organic;

alone or in combination with other words to market a product that has not been designated "certified organic" by an accredited certifying agent under this chapter and in accordance with the Organic Foods Production Act; and

- (2) who:

- (A) knows; or
- (B) should reasonably know;

that the product has not been designated "certified organic" by an accredited certifying agent under this chapter and in accordance with the Organic Foods Production Act;

commits a Class A infraction.

(b) Each label or each copy of a written public document containing the words "organic" or "certified organic" alone or in combination with other words used to market a product that has not been designated "certified organic" by an accredited certifying agent constitutes a separate infraction.

(c) After October 1, 1993, a product sold in Indiana that is:

- (1) labeled organic or certified organic; and
- (2) produced in any other state of the United States;

must be certified in accordance with the Organic Foods Production Act.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-16**Rules**

Sec. 16. The commissioner shall adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-17**Powers of panel; residue testing**

Sec. 17. The panel may, subject to the approval of the commissioner, do all things necessary to implement this chapter. However, if residue testing of a product subject to certification under this chapter is required by federal law or regulations, the testing must be conducted according to standards developed by the state chemist.

As added by P.L.175-1993, SEC.1.

IC 15-4-12-18**Injunctions**

Sec. 18. The panel may, subject to the approval of the commissioner, seek injunctive relief for violations of this chapter.

As added by P.L.175-1993, SEC.1.